

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CASE NO.

CHARLES GLENN ALLEN

04-04210-5-ATS

DEBTOR

ORDER ALLOWING OBJECTION TO VALUATION

The matter before the court is the objection to confirmation filed by DaimlerChrysler Services North America, LLC. A hearing took place in Raleigh, North Carolina on June 7, 2005.

Charles Glenn Allen filed a petition for relief under chapter 13 of the Bankruptcy Code on November 18, 2004. DaimlerChrysler holds a security interest in the debtor's 2001 Jeep Cherokee, and it filed a claim in the amount of \$10,651.55. The chapter 13 trustee filed a motion to confirm the debtor's plan on April 14, 2005, and responses were due by May 12, 2005. On April 26, 2005, DaimlerChrysler filed an objection to valuation, contending that the plan proposed to secure its claim in the amount of \$8,925, while the NADA value of the vehicle is \$11,925. Notwithstanding the objection to valuation, the plan was confirmed on May 18, 2005. Mr. Allen contends that the objection to valuation was not a timely objection to confirmation, and DaimlerChrysler is bound by the terms of the confirmed plan.

The objection to valuation was a sufficient and timely objection to the terms of the proposed plan, and DaimlerChrysler's objection is

not precluded by res judicata. While Mr. Allen submitted several facts regarding his need for the vehicle and his inability to pay a larger claim, these facts are not relevant to the issue of the vehicle's value. The NADA value is \$11,925, and DaimlerChrysler must be treated as fully secured at the contract rate of 1.9 percent.

Based on the foregoing, the objection to valuation is **ALLOWED**. DaimlerChrysler is to be treated as fully secured in the amount of \$10,651.55 at 1.9 percent interest.

SO ORDERED.

DATED: June 16, 2005


A. Thomas Small
United States Bankruptcy Judge